

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 1:16-cv-03088-
v.	)	ELR
	)	
STATE OF GEORGIA,	)	
	)	
Defendant.	)	
	)	

**JOINT STATUS REPORT**

NOW COME Plaintiff United States of America (“United States”) and Defendant State of Georgia (“State”), pursuant to the Court’s September 14, 2021 Order [Doc. 117] (the “September 14 Order”), and file this updated Joint Status Report outlining the parties’ progress in discovery and identifying outstanding issues that may affect the timeline for completing discovery.

This Court is aware of the parties’ claims and defenses. In brief, the United States alleges that the State, by delivering educational services to students with disabilities in segregated settings, through the Georgia Network for Educational and Therapeutic Support (“GNETS”) Program, violates Title II of the Americans with Disabilities Act. The State maintains, among other defenses, that it cannot provide

the relief the United States seeks because Georgia’s local school districts, through their IEP teams, determine whether a student requires GNETS Program services and because the school districts—and not the State—operate the regional GNETS programs (of which no individual employed by the State is part).

**I. Current Status**

This Court’s September 14 Order extended the period for fact discovery through and including September 12, 2022, and required the parties to submit quarterly status reports, of which this is the last, prior to the fact discovery cutoff. [Doc. 116 at 6-7]. In light of the breadth of the issues, the parties continue to take substantial discovery, including producing and reviewing electronically stored information (“ESI”), issuing and responding to interrogatory responses and requests for admission, and conducting site visits and depositions. Discovery necessary to gather facts relevant to expert opinions is also ongoing. During this past quarter, the United States voluntarily agreed to a five-week hiatus in depositions to accommodate the State’s counsel’s trial schedule in another case.

The parties expect to confer during this quarter regarding an agreed cap on the number of depositions, including the need for and potential duration of any extension to the fact discovery period. The parties hope to report to the Court shortly with joint proposals on these issues.

## **II. Steps Taken by the Parties to Complete Discovery**

Prior status reports provide extensive detail regarding discovery efforts undertaken previously. Below, the parties describe their respective discovery activities since the March 10, 2022 status report.

### **A. Steps Taken by the United States**

The United States continues to seek discovery and to respond to discovery requests with the goal of bringing this matter to trial.

#### **1. Site Visits**

On April 12 and April 22, 2022, this Court issued orders granting the United States' motions to compel site inspections of various GNETS facilities. [Docs 183 & 193.] Thereafter, the United States completed the following thirty-four site visits:

<b>4/25/2022 - 4/28/2022 Site Visit</b>		
<b>Regional GNETS Program</b>	<b>Site</b>	<b>Location</b>
GNETS of Oconee	Baldwin High School	Milledgeville, GA
GNETS of Oconee	Oak Hill Middle School	Milledgeville, GA
GNETS of Oconee	Lakeview Academy	Milledgeville, GA
GNETS of Oconee	Putnam County Middle	Eatonton, GA

Futures	Futures Center	Cornelia, GA
Futures	Cornelia Elementary	Cornelia, GA
Futures	Dawson County Jr. High	Dawsonville, GA
Futures	Dawson County High	Dawsonville, GA
Futures	Black Mills Elementary School	Dawsonville, GA
Futures	Futures Center	Cumming, GA
H.A.V.E.N. Academy	Lassiter High School	Marietta, GA
H.A.V.E.N. Academy	Sprayberry High School	Marietta, GA
H.A.V.E.N. Academy	H.A.V.E.N. Academy Center	Mableton, GA

5/2/2022 - 5/6/2022 Site Visit		
Regional GNETS Program	Site	Location
Cedarwood	Cedarwood Center	Lyons, GA
Cedarwood	Cedarwood Center	Statesboro, GA
Coastal Academy	Coastal Academy Center	Hinesville, GA
Coastal Academy	Coastal Academy Center	Brunswick, GA
Coastal Academy	Coastal Academy Center	Kingsland, GA
Horizon Academy	Horizon Academy Center	Valdosta, GA
Pathways Educational	Pathways Center	Thomasville, GA
Flint Area Learning	Flint Area Learning Center	Cordele, GA

<b>5/9/2022 - 5/13/2022 Site Visit</b>		
<b>Regional GNETS Program</b>	<b>Site</b>	<b>Location</b>
Northwest Georgia Educational	Coosa High School	Rome, GA
Northwest Georgia Educational	Main Elementary School	Rome, GA
Northwest Georgia Educational	Chattooga High School	Summerville, GA
Northwest Georgia Educational	LeRoy Massey Elementary	Summerville, GA
Northwest Georgia Educational	Coosa Middle School	Rome, GA
North Metro	Haynes Bridge Middle School	Alpharetta, GA
North Metro	North Metro Buice Center	Suwannee, GA
North Metro	Centennial High School	Roswell, GA
North Metro	Tri-Cities High School	East Point, GA
North Metro	Hamilton E. Holmes Elementary School	East Point, GA
South Metro	JB Henderson Center	McDonough, GA
Sand Hills	Sand Hills Center	Thomson, GA
Sand Hills	Tubman Educational Center	Augusta, GA

The United States has now completed the majority of its site visits. It anticipates conducting any remaining site visits after schools reopen in August 2022. Such visits, which the United States will conduct pursuant to subpoena, will include general education and GNETS settings.

## **2. Production and Review of ESI**

The parties have continued to cooperate regarding the scheduling of ESI production and prioritization of certain custodians. The State had produced approximately 360,000 ESI documents as of December 10, 2021 relating to Priority One custodians. On April 22, the State produced a roughly equal volume, approximately 350,000 documents from Priority One and Priority Two custodians.

The United States is continuing to review and assess these productions and will serve further requests as necessary.

## **3. Depositions**

The United States has taken the following depositions:

<b>Deponent</b>	<b>Relevant Affiliation</b>	<b>Deposition Date</b>
Dante McKay	DBHDD	January 27, 2022
John Quesenberry	DBHDD	March 28, 2022
Stephanie Pearson	DBHDD	March 28, 2022
Dimple Desai	Georgia Center for Excellence	March 29, 2022
Clara Keith	DBHDD	June 7, 2022
Garry McGiboney	DOE	June 8, 2022

Michael Rowland	DOE	June 9, 2022
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In addition, the United States has noticed the following depositions:

Deponent	Relevant Affiliation	Expected Date
Wendy Tiegreen	DBHDD	June 21, 2022
Layla Fitzgerald	DBHDD	June 22, 2022
Brian Dowd	DCH	June 23, 2022
Debbie Gay	DOE	June 24, 2022

The United States anticipates scheduling further depositions in July, August, and early September 2022. The ability to timely move forward with depositions depends—in large part—on the complete production and subsequent review of relevant documents from each deponent’s custodial files.

The United States will serve further fact “paper” discovery, including requests for admissions, as necessary. The parties will also cooperate to schedule the many depositions that will need to be taken to develop the evidentiary record.

#### **B. Steps Taken by the State of Georgia**

Since April 2022, virtually the entire trial team representing the State has been defending the Georgia Secretary of State and the State Election Board in the trial known as *Fair Fight Action v. Raffensperger*. Despite this, legal counsel for the State has made tremendous efforts to accommodate the United States’ aggressive deposition schedule and seven hour depositions of almost all witnesses. Further, the

State has also worked diligently to accommodate the United States' compressed timeline of visits to various facilities throughout the State where GNETS services are provided.

To date, the State has produced roughly 710,000 documents totaling over 5 million pages in response to the United States' First Request for the Production of Documents. In addition, it has worked to accommodate and respond to the United States's ongoing discovery requests outside of those related to the State's document productions.

The State believes the United States' position is that policies and practices in other states are not relevant to the issues before this Court and, accordingly, the State has not conducted discovery into such policies and practices of other states. The State intends to raise this with the United States in the coming weeks after the conclusion of the trial in the matter of *Fair Fight Action v. Raffensperger*. The State also intends to serve additional written discovery requests on the United States.

Thus far, the United States has conducted seven depositions of current or former State employees with additional depositions scheduled in the near future. The State anticipates conducting depositions in the coming months. However, the United States has not identified any individual student who is allegedly subject to unlawful discrimination under the Americans with Disabilities Act, which has

hampered the State's ability to depose individuals. The United States also has not yet identified any expert witnesses that will be providing testimony, which has slowed the State's ability to conduct discovery in some areas. The State expects to confer with the United States on these issues and reach a mutually agreeable resolution.

### **CONCLUSION**

Over the past nine months, since entry of the September 14 Order, the parties have cooperated to make further progress with respect to fact discovery. The parties will work diligently and cooperatively to meet the September 12, 2022 fact discovery deadline, or for a good faith extension thereof, and will further report to this Court regarding next steps.

June 10, 2022

Respectfully submitted,

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**L.R. 7.1(D) CERTIFICATION**

I certify that this Joint Status Report has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this brief has been prepared using 14-pt Times New Roman Font.

/s/Kelly Gardner Womack  
Kelly Gardner Womack

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the foregoing document with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 10<sup>th</sup> day of June, 2022.

/s/Kelly Gardner Womack  
Kelly Gardner Womack